

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

DAVID R. PAYNE, )  
                        )  
                        )  
Plaintiff,         )  
                        )  
                        )  
v.                     )         No. 1:16-cv-49  
                        )  
                        )  
NATIONAL MUTUAL INSURANCE )  
CO., CELINA INSURANCE GROUP, )  
and ROBERT HARVEY,         )  
                        )  
                        )  
Defendants.         )

**MEMORANDUM AND ORDER**

This civil action is before the court on the Report and Recommendation filed by United States Magistrate Judge Christopher H. Steger [Doc. 5]. There have been no timely objections to the Report and Recommendation, and enough time has passed since the filing of the Report and Recommendation to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

After a careful review of the record and the pleadings, the Court is in complete agreement with the Magistrate Judge's recommendation that this case be dismissed without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim for which relief may be granted due to this Court's lack of subject matter jurisdiction. Accordingly, the Court **ACCEPTS IN WHOLE** the Report and Recommendation under 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). It is **ORDERED**, for the reasons stated in the Report and Recommendation, which the Court adopts and incorporates into its ruling, that the plaintiff's application to proceed *in forma pauperis* [Doc. 1], his motion to

appoint counsel [Doc. 3], and his motion to compel [Doc. 4] are **DENIED as moot**. This case is **DISMISSED without prejudice**.

IT IS SO ORDERED.

s/ Thomas W. Phillips  
SENIOR UNITED STATES DISTRICT JUDGE